
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

**EAGLE VIEW TECHNOLOGIES, INC.,
and PICTOMETRY INTERNATIONAL
CORP.,**

Plaintiffs,

v.

NEARMAP US, INC.,

Defendant.

[PROPOSED] SCHEDULING ORDER

Case No.: 2:21-cv-00283-TS-DAO

District Judge Ted Stewart
Magistrate Judge Daphne A. Oberg

Pursuant to Fed.R. Civ P. 16(b), the Court received the Attorney Planning Report (Dkt. 55) filed by counsel. The Court schedules the following matters. The parties may not modify the times and deadlines set forth herein without the approval of the Court and on a showing of good cause pursuant to Fed. R. Civ. P. 6.

ALL DEADLINES ARE SET FOR 11:59 P.M. ON THE DATE INDICATED UNLESS EXPRESSLY STATED TO THE CONTRARY

(1) PRELIMINARY MATTERS/DISCLOSURES

Event	Original Deadline	Parties' Agreed Proposal
Plaintiff's Accused Instrumentalities disclosure due [LPR 2.1, 7 days from Answer]	December 6, 2021	December 6, 2021
Last day to hold Rule 26(f)(1) Conference and begin discovery [LPR 1.2, 1.3, 35 days from Answer]	January 3, 2022	January 3, 2022
Plaintiff's Rule 26(a)(1) initial disclosure due [LPR 2.2, 21 days from answer]	December 20, 2021	January 7, 2022 (extended by parties' agreement)
Attorney Planning Meeting Report and Proposed Scheduling Order submitted [LPR 1.2, 7 days from 26(f) Conference]	January 10, 2022	January 10, 2022
Defendant's Rule 26(a)(1) initial disclosure due [LPR 2.2, 28 days from Answer]	December 27, 2022	January 14, 2022 (extended by parties' agreement)
Plaintiff serves Initial Infringement Contentions [LPR 2.3, 35 days from Defendant's Initial Disclosures]	January 31, 2022	February 10, 2022 [27 days after Defendant's initial disclosures]
Defendant serves Initial Non-Infringement, Unenforceability, and Invalidity Contentions [LPR 2.4, 14 days from Infringement Contentions]	February 14, 2022	February 24, 2022

Event	Original Deadline	Parties' Agreed Proposal
Final Infringement Contentions [LPR 3.1, 21 weeks from Initial Contentions]	June 27, 2022	June 30, 2022 [20 weeks from Initial Infringement Contentions]
Final Unenforceability and Invalidity Contentions [LPR 3.1, 14 days from Final Infringement Contentions]	July 11, 2022	July 14, 2022
Final Non-Infringement Contentions [LPR 3.2, 28 days from Final Infringement Contentions]	July 25, 2022	July 28, 2022

(2) DISCOVERY LIMITATIONS

Event	Parties' Agreed Proposal
Maximum number of depositions ¹ by Plaintiff(s)	10
Maximum number of depositions ² by Defendant(s)	10
Maximum number of hours for each deposition (unless extended by agreement of parties)	7
Maximum interrogatories ³ by any party to any party	25
Maximum requests for admissions by any party to any party	200
Maximum requests for production by any party to any party	100

The parties shall handle a claim of privilege or protection as trial preparation material asserted after production as set forth in the Standard Protective Order for the United States District Court for the District of Utah.

¹ Excluding depositions of experts.

² Excluding depositions of experts.

³ An interrogatory or multiple interrogatories seeking the basis of a party's affirmative defenses, infringement contentions, or invalidity contentions counts as one interrogatory regardless of the number of affirmative defenses alleged or the number of infringed or invalid claims alleged. A party may object to the time of discovery as set forth in LPR 1.7.

Event	Original Deadline	Parties' Agreed Proposal
Deadline to serve written discovery before claim construction [R. 34]	N/A	July 26, 2022
Close of fact discovery before claim construction [LPR 1.3(a), 28 days from Exchange of CC Terms]	September 6, 2022 (Labor Day is September 5)	September 8, 2022
Disclosure of intent to rely on opinions of counsel and materials in support [LPR 1.3(c), 7 days from Entry of CC Ruling]	7 days after claim construction ruling	7 days after claim construction ruling
Deadline to file motion for additional discovery [LPR 1.3(b)]		14 days after claim construction ruling

(3) AMENDMENT OF PLEADINGS/ADDING PARTIES

Event	Date
Last day to file motion to amend pleadings	September 14, 2022
Last day to file motion to add parties	September 14, 2022

(4) CLAIM CONSTRUCTION PROCESS

Event	Original Deadline	Parties' Agreed Proposal
Parties exchange proposed claim terms and claim constructions for construction [LPR 4.1(a), 14 days from Final Non-Infringement Contentions]	August 8, 2022	August 11, 2022
Reach agreement to submit no more than 10 terms for construction [LPR 4.1(b), 7 days from Exchange of Terms]	August 15, 2022	August 18, 2022

Event	Original Deadline	Parties' Agreed Proposal
Parties file Cross-Motions for Claim Construction and Joint Appendix [LPR 4.2(a) & (b), 35 days from Exchange of Terms]	September 12, 2022	September 15, 2022
Parties file Simultaneous Responsive Claim Construction Briefs [LPR 4.2(c), 28 days from Opening Briefing]	October 11, 2022 (Columbus Day is Oct. 10)	October 6, 2022 [21 days from Opening Claim Construction Briefs]
Joint Claim Construction Chart & Joint Status Report Due [LPR 4.2(f), 7 days from Responsive Briefing]	October 17, 2022	October 13, 2022
Tutorial for Court [LPR 4.4, 14 days from Responsive Briefing]	October 24, 2022	October 20, 2022
Parties exchange exhibits [LPR 4.3]	7 days before claim construction hearing	7 days before claim construction hearing
Claim Construction Hearing ⁴ [LPR 4.3]	TBD	TBD

(5) EXPERT DISCOVERY

Event	Date
Parties bearing burden of proof [LPR 5.1(b)]	28 days after claim construction ruling
Counter reports [LPR 5.1(c), 28 days after opening reports]	56 days after claim construction ruling
Close of expert discovery [LPR 5.2, 35 days after rebuttal reports]	91 days after claim construction ruling

(6) DISPOSITIVE MOTIONS

⁴ Parties should contact the Court to set the date for the Claim Construction Hearing

Event	Original Deadline	Parties' Agreed Proposal
Deadline to file dispositive motions required to be filed with claim construction [LPR 6.2, at Opening CC Briefing]	September 12, 2022	September 15, 2022
Deadline to file opposition to dispositive motions filed with claim construction [LPR 6.2, DUCivR 56-1, 7-1, 28 days from Dispositive Motion]	October 11, 2022 (Columbus Day is Oct. 10)	October 13, 2022
Deadline to file reply to dispositive motions filed with claim construction [LPR 6.2, DUCivR 56-1, 7-1, 14 days from Opposition]	October 24, 2022	October 27, 2022
Deadline for filing partial or complete motions to exclude expert testimony		105 days after claim construction ruling
Deadline for filing dispositive or potentially dispositive motions [LPR 6.1, 28 days from Close of Expert Discovery]	119 days after claim construction ruling	119 days after claim construction ruling

(7) SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION/OTHER PROCEEDINGS

Event	Yes/No
Likely to request referral to a Magistrate Judge for settlement conference	No
Likely to request referral to court-annexed arbitration	No
Likely to request referral to court-annexed mediation	No
Last day to seek stay pending reexamination [LPR 3.5]	August 11, 2022
The parties will complete private mediation/arbitration by:	TBD

Event	Yes/No
The parties will evaluate case for Settlement/ADR on:	TBD
Settlement probability:	Low

Plaintiff is directed to file a new scheduling order within 14 days of ruling on claim construction. The Court will set trial deadlines in that order or through a case management conference.

(8) OTHER MATTERS

All Motions in Limine should be filed well in advance of the Final Pretrial Conference.

Signed _____

BY THE COURT:

U.S. Magistrate Judge